

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 BRIAN HARRIS,

5 Plaintiff,

6 -against- No. 20-CV-10864(LGS)

7 CITY OF NEW YORK; Lieutenant ANGEL
8 LEON; Detective KRISTEN SWINKUNAS (Shield #2190);
9 Police Officer ANTONELLA JIMENEZ (Shield #5209);
10 Police Officer MAXWELL BALTZER (Shield No. 15451);
11 and Lieutenant JOHN LANE,

12 Defendants.

13 -----X

14 DEPOSITION OF DETECTIVE KRISTEN SWINKUNAS

15 New York, New York

16 November 4, 2021

17 8:56 a.m.

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21
22 ELLEN SANDLES REPORTING
23 145 East 16th Street, #9H
24 New York, New York 10003
25 212-677-8739

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1 DETECTIVE KRISTEN SWINKUNAS

2 A. I did, yes.

3 Q. What your prior shield number?

4 A. When I was a police officer it was
5 2284.

6 Q. Was that your shield number as of
7 September 2nd, 2020?

8 A. I was a detective as of September 2nd,
9 2020.

10 Q. So it was 2190 as of September 2020?

11 A. Yes.

12 Q. What is your approximate height?

13 A. I am 5'6".

14 Q. Was that your approximate height at the
15 time of September 2020 as well?

16 A. Yes.

17 Q. What was your approximate weight as of
18 September 2nd, 2020?

19 A. At that time I was probably about 170.

20 Q. Did you exercise regularly as of
21 September 2nd, 2020?

22 A. I did.

23 Q. What was your general exercise regimen
24 as of that date?

25 MR. ARKO: Objection.

1 DETECTIVE KRISTEN SWINKUNAS

2 A. I walked, I went to the gym three times
3 a week.

4 Q. As of September 2020 when you would go
5 to the gym would you lift weights regularly as
6 part of your exercise regimen?

7 A. No.

8 Q. What is the highest level of education
9 that you have obtained?

10 A. I have a bachelor's degree.

11 Q. When did you obtain that degree?

12 A. 2004.

13 Q. Where did you obtain it from?

14 A. Mount St. Mary College.

15 Q. When did you join the NYPD academy?

16 A. I joined in 2005.

17 Q. Did you have any jobs in between
18 graduating from college and joining the NYPD?

19 A. I did.

20 Q. What jobs did you have in between
21 college and joining the NYPD?

22 A. I was a preschool teacher, and I worked
23 briefly for an attorney doing administrative
24 stuff.

25 Q. Were those positions in New York City

1 DETECTIVE KRISTEN SWINKUNAS

2 or elsewhere?

3 A. Elsewhere.

4 Q. Did you ever hold any previous law
5 enforcement jobs before joining the NYPD?

6 A. No.

7 Q. Were you ever a member of the military?

8 A. No.

9 Q. When did you graduate from the police
10 academy?

11 A. In 2006.

12 Q. What was your first command out of the
13 academy?

14 A. The 32nd precinct.

15 Q. Where is that located?

16 A. In Manhattan.

17 Q. Where in Manhattan?

18 A. It is upper Manhattan.

19 Q. What were your job responsibilities
20 when you joined the 32nd precinct?

21 A. I was a patrol officer.

22 Q. Can you explain generally what your job
23 duties were on a day-to-day basis as a patrol
24 officer in the 32nd precinct?

25 A. We handled radio runs that came over

1 DETECTIVE KRISTEN SWINKUNAS

2 from Central Dispatch.

3 Q. How long were you a patrol officer in
4 the 32nd precinct?

5 A. Approximately 11 years.

6 Q. After 11 years did you receive a new
7 command?

8 A. Yes, I did.

9 Q. Would that have been in approximately
10 2017?

11 A. Yes -- the end of 2015, actually, was
12 when I moved onto my next.

13 Q. What was your next command after the
14 32nd precinct?

15 A. I worked for Manhattan Special Victims.

16 Q. Were you still an officer at that time
17 or had you been promoted?

18 A. At that time I was still an officer.

19 Q. What were your job responsibilities
20 working for Manhattan Special Victims?

21 A. We investigated sexual assault cases.

22 Q. How long were you in that position for?

23 A. I was a detective with Special Victims
24 approximately four years.

25 Q. I'm sorry, I thought you said you were

1 DETECTIVE KRISTEN SWINKUNAS

2 still an officer when you were in that position.

3 Was it during that position you were
4 promoted to detective?

5 A. Yes.

6 Q. When were you promoted?

7 A. After 18 months of being at Manhattan
8 Special Victims.

9 Q. So would that have been sometime in
10 2017-ish?

11 A. Yes.

12 Q. What grade detective are you currently?

13 A. I am a third grade.

14 Q. After Manhattan Special Victims Unit,
15 did you have any other commands?

16 A. I am currently at the 26th Precinct.

17 Q. Did you have any commands in between
18 Special Victims and the 26?

19 A. I was inside Special Victims, but I did
20 various units inside of Special Victims.

21 Q. What units did you do within that
22 division?

23 A. I did Special Victims night watch, and
24 I was also administrative for Special Victims
25 Division.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. What does that mean "administrative for
3 Special Victims Division"?

4 A. We are essentially the wheel of Special
5 Victims, any cases that come into our unit we
6 filter them out to the appropriate squad that they
7 need to go to.

8 Q. Why did you move from Special Victims
9 to the 26th Precinct?

10 MR. ARKO: Objection.

11 A. There was an administrative issue with
12 a supervisor.

13 Q. When you say "an administrative issue
14 with a supervisor" do you mean an issue between
15 you and a supervisor?

16 A. Yes.

17 Q. What was that issue?

18 MR. ARKO: Objection. I am going to
19 instruct the witness not to answer on the grounds
20 of privilege, it is a disciplinary issue that is
21 not related to allegations of excessive force or
22 false statements. We had the same dispute
23 yesterday but I'm going to invoke the same
24 privilege and instruct the witness not to answer.

25 MS. KAUFMAN: I will state for the

1 DETECTIVE KRISTEN SWINKUNAS
2 record again I think that is an improper
3 objection, obviously there is no privilege there
4 and all disciplinary records are discoverable. So
5 I think it is highly improper, particularly if it
6 bears on her reason for ending up in the command
7 where she is now; you are making a relevance
8 objection which is an improper basis to instruct
9 the witness not to answer.

10 Q. I may ask a couple of additional
11 questions without getting at the substance of it,
12 and I will mark the substance for a ruling.

13 Did you receive discipline as a result
14 of this administrative issue that resulted in your
15 transfer?

16 MR. ARKO: Objection. I am instructing
17 the witness not to answer on the same grounds.

18 MS. KAUFMAN: So you're not just
19 objecting as to the substance, you're objecting to
20 the question of whether or not she was discipline?

21 MR. ARKO: Yes.

22 MS. KAUFMAN: Again, I will say that is
23 improper.

24 Q. Approximately when did you transfer to
25 the 26th Precinct?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. In February 2019.

3 Q. In connection with the administrative
4 issue that you had mentioned, did you make any
5 internal complaints to the NYPD about
6 discrimination or unfair treatment or anything
7 along those lines?

8 MR. ARKO: Objection.

9 A. Yes, I have.

10 Q. Where have you filed internal
11 complaints with the NYPD relating to this
12 administrative issue?

13 MR. ARKO: Objection.

14 A. With supervisors that I had worked for.

15 Q. Did you ever file any complaints
16 outside of that like with the New York City
17 Commission on Human Rights or any court related to
18 this issue?

19 MR. ARKO: Objection.

20 A. No, I did not.

21 Q. After you transferred from Special
22 Victims to the 26th Precinct, what were your job
23 responsibilities in the 26th Precinct?

24 A. I was a patrol officer.

25 Q. Excuse my lack of understanding, were

1 DETECTIVE KRISTEN SWINKUNAS

2 you still a detective at that point?

3 A. Yes.

4 Q. What were your responsibilities as a
5 patrol officer in the 26th Precinct?

6 A. Answering radio runs.

7 Q. Have you ever taken the sergeant's
8 exam?

9 A. I did.

10 Q. When did you take that?

11 A. I don't remember the exact dates, but I
12 took it twice.

13 Q. What were the results of those tests?

14 MR. ARKO: Objection.

15 A. I missed it both times.

16 Q. Do you intend to apply again?

17 A. No.

18 Q. Are you still a patrol officer in the
19 26th Precinct?

20 A. Yes.

21 Q. Had you had any other command changes
22 or promotions or demotions since you transferred
23 to the 26th Precinct in February of 2018 (sic)?

24 A. It was February of '19, and no.

25 Q. Did you have a regular tour as of

1 DETECTIVE KRISTEN SWINKUNAS

2 September of 2020 when you were working for the
3 26th Precinct?

4 A. Yes.

5 Q. What was your regular tour?

6 A. I worked 23:15 by 07:50 hours.

7 Q. For those of us less versed in military
8 time is that approximately 11:15 p.m. to
9 7:50 a.m.?

10 A. Yes.

11 MS. KAUFMAN: This is Plaintiff's
12 [Exhibit 8](#), we are going to number consecutively.

13 (Plaintiff's [Exhibit No. 8](#) was
14 marked for identification.)

15 MR. ARKO: I will ask that after the
16 deposition you send them to me electronically
17 because I can't save them on this computer.

18 MS. KAUFMAN: Of course.

19 Q. Do you see this document?

20 A. Yes.

21 Q. Do you recognize this to be your
22 activity log report from your tour starting on
23 September 1, 2020 and ending on September 2, 2020?

24 A. Yes.

25 Q. Is this document also referred to as

1 DETECTIVE KRISTEN SWINKUNAS

2 your memo book?

3 A. Yes.

4 Q. Is this the document that you referred
5 to earlier when you said that you had reviewed
6 your memo book in advance of this deposition?

7 A. Yes.

8 Q. So, looking at the document we have
9 marked as Plaintiff's [Exhibit 8](#), would you agree
10 that on your tour from September 1st to September
11 2nd, you worked your regular tour starting at
12 23:15 and ending at 7:50?

13 A. On this date I ended up leaving earlier
14 than the end of 7:50.

15 Q. What time did you leave on this tour?

16 A. 6:05 in the morning.

17 Q. Why did you leave early?

18 A. I took loss time.

19 Q. Why did you take loss time on this
20 date?

21 MR. ARKO: Objection, you can answer.

22 A. I had a family emergency.

23 Q. When you said "loss time" is that the
24 equivalent of sick time or paid leave, something
25 like that?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. It is paid leave, yes.

3 Q. When you reported to work on
4 September 1, 2020, where did you report?

5 A. To the 26th Precinct.

6 Q. Do you recall the exact address of that
7 precinct?

8 A. It is 520 West 126.

9 Q. When you reported to the precinct that
10 night were you assigned a partner to work with on
11 your tour?

12 A. Yes.

13 Q. Who was your partner on that night?

14 A. Officer Jimenez.

15 Q. What is Officer Jimenez's first name?

16 A. I believe it is Antoinette (ph) or
17 Antoinetter (ph).

18 Q. Was that the first time you had worked
19 with Officer Jimenez as your partner?

20 A. Yes.

21 Q. Have you worked Officer Jimenez as your
22 partner any time after that?

23 A. No.

24 Q. So that was the only night in your
25 career that you have worked with her as your

1 DETECTIVE KRISTEN SWINKUNAS

2 partner?

3 A. Yes.

4 Q. Why were you and Officer Jimenez
5 assigned as partners that night?

6 A. Our platoon commander put us together
7 in a vehicle that night.

8 Q. Do you have any understanding of why
9 that decision was made to make you partners that
10 night when you haven't been partners before or
11 since?

12 A. No.

13 Q. Who was your platoon commander?

14 A. Lieutenant Leon.

15 Q. Were you assigned to any particular
16 unit or divisions within the 26th Precinct at that
17 time?

18 A. We were both assigned to a sector.

19 Q. What sector was that?

20 A. I don't recall what sector we were in,
21 I could reference back to my memo book if that
22 could be brought back up again.

23 Q. Sure.

24 (Complying.)

25 A. I can see it.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Does looking at this document refresh
3 your recollection as to what sector you were
4 assigned to?

5 A. Yes.

6 Q. What sector is that?

7 A. Sector Boy -- "B" as in boy.

8 Q. What does it mean that you were
9 assigned to a sector?

10 A. So being assigned to Sector Boy we
11 handled certain jobs within a certain block radius
12 of the 26th Precinct.

13 Q. When you say "certain jobs" do you mean
14 certain types of calls?

15 A. Radio runs that would come over from
16 Central Dispatch to that sector.

17 Q. Do you recall what the geographic
18 boundary of that sector was?

19 A. I do not.

20 Q. Looking at your memo book, can you tell
21 the first call that you responded to that night of
22 September 1st to September 2nd of 2020?

23 A. Yes.

24 Q. What was that?

25 A. We were on a directive at 23:47 hours,

1 DETECTIVE KRISTEN SWINKUNAS

2 the location being 125 and Marginal.

3 Q. What is "a directive"?

4 A. We sit at the location, it is a crime
5 location, and we sit with our turret lights on
6 which are the lights on top of the vehicle, and we
7 make sure there are no criminal activities
8 occurring at the location.

9 Q. Looking at your memo book, do you know
10 where you went or were directed or dispatched
11 after you were directed at 125 and Marginal?

12 A. From there -- you can stop right
13 there -- at 12:05 a.m. we were assigned to do the
14 mail run.

15 Q. What is "the mail run"?

16 A. The mail run essentially is us picking
17 up vouchered property from several other
18 precincts, as well as mail that needs to be
19 brought to the patrol bureau Manhattan North
20 building.

21 Q. What did you do after the mail run?

22 A. We went 98 from that and were out on an
23 aided at 2:05 in the morning.

24 Q. What is "an aided"?

25 A. We were given a job from Central

1 DETECTIVE KRISTEN SWINKUNAS

2 Dispatch, it came over as a person needing medical
3 assistance.

4 Q. What did you do after you responded to
5 the person needing medical assistance?

6 A. We were scratched at 123 and Amsterdam
7 by Lieutenant Leon, and that was at 2:26 in the
8 morning.

9 Q. What does "scratched" means?

10 A. Our supervisor comes by and makes sure
11 we are okay, and if we need anything for the
12 evening.

13 Q. What happened after your scratch with
14 Lieutenant Leon at 2:26 in the morning?

15 A. Then at 2:38 in the morning we were at
16 a vehicle check point with Sergeant Cannariato.

17 Q. What is "a vehicle check point"?

18 A. A vehicle safety check point is, we
19 look for any traffic infractions that may be going
20 on at that location; there are several stop signs
21 and several red lights at that location and we are
22 there to make sure that motorists are following
23 all safety rules.

24 Q. What happened after that on the morning
25 of September 2nd?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. At 3:00 in the morning my partner and I
3 responded to St. Luke's Hospital, we were backing
4 the unit that was assigned to a radio run from
5 Central Dispatch.

6 Q. When you say "backing the unit that
7 came from Central Dispatch," what does --

8 A. It came over as a 10-34 male shot at
9 St. Luke's, and that's a heavy priority job, so we
10 went to the hospital to assist them in whatever
11 way they needed.

12 Q. What does "10-34" indicate?

13 A. It is a priority job, it is a person
14 that was assaulted, and essentially it was a male
15 shot.

16 Q. When you say you were "assisting the
17 unit that was discharged" what unit was actually
18 discharged to the hospital?

19 A. Sector Adam.

20 Q. Is that Sector Adam out of the 126th
21 (sic) Precinct?

22 A. Yes.

23 Q. Why was Sector Adam the unit that was
24 discharged to respond to that?

25 A. They were assigned by Central Dispatch,

1 DETECTIVE KRISTEN SWINKUNAS

2 they cover St. Luke's Hospital.

3 Q. So you're saying that St. Luke's is
4 within the geographic location of Sector A, and
5 even though you guys were in Sector B you were
6 discharged to go there as back up?

7 A. Yes.

8 Q. When it indicates that there is a
9 10-34, does that mean you got the dispatch over
10 the radio?

11 A. Yes.

12 Q. Where were you, if you could recall,
13 when you got the dispatch over the radio to
14 respond to St. Luke's?

15 A. We were at the check point on 125 and
16 Riverside Drive.

17 Q. When you got the discharge to go to
18 St. Luke's, what information did you receive from
19 the dispatcher?

20 A. I had heard over Central Dispatch that
21 it was a 10:34 male shot at St. Luke's, and I
22 heard that Sector Adam was assigned to that.

23 Q. Did you hear anything else?

24 A. No.

25 Q. What did you do after getting the radio

1 DETECTIVE KRISTEN SWINKUNAS

2 dispatch to go to St. Luke's?

3 A. We went to St. Luke's Hospital.

4 Q. When you say "we" do you mean you and
5 Officer Jimenez?

6 A. Yes.

7 Q. Approximately how long did it take you
8 to get from your check point to St. Luke's?

9 A. Approximately five, maybe six minutes.

10 Q. So approximately what time do you think
11 you arrived at St. Luke's Hospital on the morning
12 of September 2nd?

13 A. Probably by 10 after 3:00.

14 Q. When you drove to St. Luke's Hospital,
15 did you park your police vehicle at some point and
16 get out of the car?

17 A. Yes.

18 Q. Where did you park your vehicle?

19 A. Near the ambulance bay of St. Luke's.

20 Q. When you arrived at the scene -- and
21 when I say "the scene" I am talking about the
22 scene outside of the emergency room at St. Luke's,
23 the ambulance bay -- when you arrived at the scene
24 were officers from Sector A already present?

25 A. They were, yes.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Who was present from Sector A?

3 A. Officer Valdez and Officer Fernandez.

4 Q. Do you know their first names?

5 A. Officer Valdez's first name is Robby,
6 and Officer Fernandez is Gabriel.

7 Q. Was anyone else from Sector A present
8 when you arrived at the scene?

9 A. No.

10 Q. Were any other members of service
11 present when you arrived at the scene?

12 A. No.

13 Q. When you arrived at the scene, what did
14 you see; what did it look like?

15 A. We entered into the emergency room.
16 Prior to entering the emergency room I observed a
17 vehicle that was parked and left in the ambulance
18 bay, we continued, entered into the emergency room
19 where I was met with Officer Valdez and Fernandez.

20 Q. So Officer Valdez and Fernandez were in
21 the hospital when you arrived?

22 A. Yes.

23 Q. I am going to break this down a little
24 bit: So you said that in order to get into the
25 emergency room you walked past or observed a

1 DETECTIVE KRISTEN SWINKUNAS

2 vehicle that was parked near the ambulance bay.

3 Is that correct?

4 A. Yes.

5 Q. Do you remember what the vehicle was?

6 A. I remember it was a dark color SUV.

7 Q. If I told you that it was a navy blue
8 2007 Chevy Tahoe, do you have any reason to
9 disagree with that or any information to the
10 contrary?

11 MR. ARKO: Objection.

12 A. No.

13 Q. How was the vehicle parked?

14 A. The vehicle was parked on a slant
15 facing the ambulance, entryway to the emergency
16 room.

17 Q. Did you observe that any doors or
18 windows were open?

19 A. I did.

20 Q. What doors or windows did you observe
21 were opened?

22 A. The front passenger door was left ajar.

23 Q. Any other doors or windows you observed
24 being opened?

25 A. No.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Did you inspect the vehicle before
3 going into the hospital?

4 A. I did not.

5 Q. Did you see anything in the car or on
6 the ground that you observed as you were walking
7 into the hospital?

8 A. I did not.

9 Q. Did you have any mental impressions
10 about what the car was doing there at the time you
11 first passed it and entered the hospital?

12 MR. ARKO: Objection.

13 A. No.

14 Q. Did you have any conversations with
15 Detective Jimenez (sic) about the car as you were
16 walking past it?

17 A. No, Officer Jimenez and I never spoke
18 about the vehicle.

19 Q. After you entered the hospital, where
20 did you encounter Officer Valdez and Officer
21 Fernandez?

22 A. They were inside the emergency room.

23 Q. Did you have to look for them or find
24 them?

25 A. I had to look for them.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. How did you know to look for them, how
3 did you know they would be there?

4 A. Staff members at the hospital had
5 stated the officers were on the other side of
6 where we were standing.

7 Q. So when you entered the hospital you
8 had a conversation with hospital staff and they
9 directed you to the other officers.

10 Is that fair?

11 A. Yes.

12 Q. What else did you talk about with the
13 hospital staff when you first entered the
14 hospital?

15 A. That was it.

16 Q. Did they tell you anything about the
17 victim or the condition of the victim?

18 A. No.

19 Q. What happened after you encountered
20 Officer Valdez and Officer Fernandez?

21 A. I was briefly speaking to them about
22 what essentially they had as far as the job that
23 came over, and how the victim was at this point,
24 and if they were able to get any information as to
25 where the location of the actual shooting

1 DETECTIVE KRISTEN SWINKUNAS

2 happened.

3 Q. When you say "what they had" do you
4 mean what information they had?

5 A. Yes.

6 Q. What information did Officer Valdez and
7 Officer Fernandez share with you about the
8 shooting?

9 A. They did not have much information to
10 provide other than the victim was in the room
11 already, he had been seen and treated by medical
12 staff. At that point his leg was wrapped and he
13 was medically treated, but he was not so
14 forthcoming with information.

15 Q. Did you learn at that time that the
16 shooting victim was in stable condition?

17 A. Yes.

18 Q. Was the person you were talking to
19 Officer Valdez or Officer Fernandez or both?

20 A. Both.

21 Q. When you say "they were not so
22 forthcoming" do you mean they had information they
23 were not sharing or they didn't know a lot or
24 something else?

25 A. They didn't get much information from

1 DETECTIVE KRISTEN SWINKUNAS

2 the victim.

3 Q. Did they share with you any information
4 about where the victim had been shot?

5 A. They had stated that he was shot in the
6 leg.

7 Q. Did they give you any information about
8 where like geographically in the City the victim
9 had been shot?

10 A. No.

11 Q. Did they give you any information about
12 how the victim had ended up in the hospital?

13 A. No.

14 Q. Did they give you any information about
15 who had shot the victim?

16 A. No.

17 Q. So other than telling you that the
18 victim had been seen and treated and his leg was
19 wrapped and he was stable, did they give you any
20 other information about the details of the
21 shooting?

22 A. No.

23 Q. What happened after your conversation
24 with Officer Fernandez and Officer Valdez?

25 A. I went to speak to the victim myself.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Did Officer Jimenez accompany you when
3 you went to the speak to the victim?

4 A. No.

5 Q. Where did she go at the time you went
6 to speak to the victim?

7 A. She stayed outside of the room.

8 Q. Was she present when you were talking
9 to Officer Fernandez and Officer Valdez?

10 A. Yes.

11 Q. Why did she stay outside of the
12 victim's room instead of going in to speak to him?

13 MR. ARKO: Objection.

14 A. I don't know.

15 Q. Did you have a conversation about why
16 one of you would go inside and one outside?

17 A. No.

18 Q. Did you instruct her to stand outside
19 and wait?

20 A. No.

21 Q. So to the best of your knowledge, she
22 just decided on her own to wait outside?

23 A. Yes.

24 Q. About how long did your conversation
25 with Officer Fernandez and Officer Valdez last?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. A minute, possibly two minutes.

3 Q. What happened after you entered the
4 shooting victim's room?

5 A. He was laying on the bed, I introduced
6 myself to him and I had told him that we were
7 there to make sure he was okay, and to see if
8 there was any other victims he was with that he
9 may have known about.

10 Q. What, if anything, did the victim say
11 in response?

12 A. The victim had stated he was at a party
13 with friends when he had heard gunshots, and he
14 began running.

15 Q. What else, if anything, did he say?

16 A. That was it.

17 Q. Did he say whether he was shot at the
18 party or on the way out or something else?

19 A. He believed that he was shot when he
20 was exiting, when he was running from the party.

21 Q. Did he say where the party was located?

22 A. He stated that he was in a parking area
23 of a housing location.

24 Q. So he was outdoors when he was shot?

25 A. Yes.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Did he say anything about how he got to
3 the hospital?

4 A. No.

5 Q. Did he say anything about whether
6 anyone else had been shot?

7 A. No.

8 Q. Did he say anything about who shot him?

9 A. No.

10 Q. Did you ask him any additional or
11 follow-up questions, after he shared the
12 information about the circumstances of his injury?

13 A. I asked him if he knew anything further
14 where the gunshots were coming from, he said he
15 just heard them and he took off running.

16 Q. Did you ask him about how he ended up
17 at the hospital?

18 A. I did not, no.

19 Q. Did you ask the shooting victim for his
20 name or did you already know his name at that
21 point?

22 A. I did not ask him for his name.

23 Q. Did you know his name at that point?

24 A. I did not.

25 Q. Did you or the shooting victim say

1 DETECTIVE KRISTEN SWINKUNAS
2 anything else in that initial conversation that we
3 have not already discussed here today?

4 A. No.

5 Q. Approximately how long did your
6 conversation with the shooting victim last?

7 A. Approximately two minutes.

8 Q. What did you do after that
9 conversation?

10 A. I exited the room where the victim was.

11 Q. Where did you go next?

12 A. I went into the lobby of the emergency
13 room.

14 Q. Did Detective Jimenez go with you?

15 A. Officer Jimenez did go with me, yes.

16 Q. What happened after you got to the
17 lobby of the ER?

18 A. I was greeted by my supervisor,
19 Sergeant Cannariato.

20 Q. Did you have a conversation with
21 Sergeant Cannariato?

22 A. I did.

23 Q. What was the sum and substance of that
24 conversation?

25 A. Just informing him that the victim had

1 DETECTIVE KRISTEN SWINKUNAS

2 already been seen by medical staff, he had been
3 shot in the leg, and the only information I had
4 where the shooting had happened was in a housing
5 location right outside of a parking lot.

6 Q. Did the shooting victim tell you where
7 geographically that housing authority and parking
8 lot were located?

9 A. No.

10 Q. Did you ask him that question?

11 A. I did.

12 Q. What did he say in response?

13 A. He wasn't sure.

14 Q. What else, if anything, did you say to
15 Sergeant Cannariato when you encountered him in
16 the ER lobby?

17 A. That was the extent of the
18 conversation.

19 Q. Did he give you any orders or
20 instructions at that point?

21 A. No.

22 Q. Did he ask any further questions of
23 you?

24 A. No.

25 Q. Was Officer Jimenez present for that

1 DETECTIVE KRISTEN SWINKUNAS

2 conversation?

3 A. Yes, she was.

4 Q. Approximately how long did that
5 conversation last?

6 A. Approximately two minutes.

7 Q. Where did -- to the best of your
8 knowledge -- Sergeant Cannariato go after that?

9 A. Cannariato stayed in the emergency room
10 as well.

11 Q. Where did you go after that
12 conversation?

13 A. I exited the emergency room doors.

14 Q. Why did you exit the emergency room at
15 that time?

16 A. We were going to leave the location.

17 Q. When you say "we" do you mean you and
18 Officer Jimenez?

19 A. Yes.

20 Q. Why were you going to leave the
21 location at that time?

22 A. We were going to resume patrol.

23 Q. Did Sergeant Cannariato instruct you to
24 resume patrol at some point?

25 A. No.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Did anyone else instruct you to resume
3 patrol at that point?

4 A. At that point, no.

5 Q. Where were intending to go when you
6 left the hospital?

7 A. We were going to resume patrol, so
8 anything that came over from Central Dispatch; she
9 would know that we were 98 (sic) and would be able
10 to handle any jobs that came over.

11 Q. So you were going to inform Central
12 Dispatch that you were leaving that scene so you
13 would be available for future calls?

14 A. Yes.

15 Q. At any point, did you actually make
16 that call to Central Dispatch to let them know
17 that you were available?

18 A. No, we did not get a chance to; no.

19 Q. Did you tell Sergeant Cannariato that
20 you were intending to resume patrol?

21 A. No, we were not needed any further at
22 that hospital.

23 Q. That assessment that you weren't needed
24 there was an assessment you made and not anyone
25 else told you, correct?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Yes.

3 Q. Did you discuss with Officer Jimenez
4 that that was your intention, to resume patrol?

5 A. No.

6 Q. Did she know that that was what you
7 were going to do, you were going to call Dispatch
8 to resume patrol or she did not know that yet?

9 A. She knew, she followed me out of the
10 hospital.

11 Q. Did you inform her at some point you
12 were intending to resume patrol?

13 A. Once we exited the hospital we did not
14 get a chance to resume patrol, we were greeted by
15 our lieutenant that was outside.

16 Q. Did you guys have a conversation and
17 decide together you were going to resume patrol or
18 was that something you decided?

19 A. That was something I decided.

20 Q. What happened when you exited the
21 emergency room?

22 A. We were greeted by Lieutenant Leon.

23 Q. Did you observe any other members of
24 service outside the ER, other than Lieutenant
25 Leon?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Yes.

3 Q. Who else did you observe?

4 A. Lieutenant Lane and his driver, Officer
5 Baltzer.

6 Q. Anyone else?

7 A. That was it.

8 Q. Were Lieutenant Lane and Lieutenant
9 Leon your supervisors within the 26th Precinct?

10 A. Lieutenant Lane is not my supervisor,
11 Lieutenant Leon is my supervisor.

12 Q. Is that because of the sector division?
13 Why is it that one is your supervisor and one is
14 not?

15 A. Lieutenant Lane is assigned to special
16 operations, Lieutenant Leon is the platoon
17 commander for the midnight patrol.

18 Q. Does that -- as platoon commander does
19 Lieutenant Leon oversee multiple sectors?

20 A. Yes.

21 Q. You mentioned also seeing Officer
22 Baltzer, who you described as Lieutenant Lane's
23 driver.

24 Is that correct?

25 A. Yes.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Do you know Officer Baltzer?

3 A. I do not.

4 Q. Had you ever worked with him prior to
5 this date?

6 A. No.

7 Q. Have you ever worked with him since the
8 date of this incident?

9 A. No.

10 Q. Do you know Lieutenant Leon?

11 A. Yes.

12 Q. As your supervisor, was he someone you
13 interacted with regularly?

14 A. Yes.

15 Q. What about Lieutenant Lane, did you
16 know him or interact with him regularly?

17 A. No.

18 Q. Where were Lieutenant Lane, Lieutenant
19 Leon and Officer Baltzer situated when you exited
20 the emergency room?

21 A. Lieutenant Leon was standing next to a
22 vehicle outside of the ambulance bay, and
23 Lieutenant Lane and his driver, Officer Baltzer,
24 were exiting their vehicle.

25 Q. When you say "Lieutenant Lane was

1 DETECTIVE KRISTEN SWINKUNAS
2 standing next to a vehicle" was that the same dark
3 SUV you described earlier or a different vehicle?

4 A. It was the vehicle that I described
5 earlier.

6 Q. And where was Lieutenant Lane and
7 Officer Baltzer getting out -- where was their
8 vehicle parked?

9 A. Their vehicle was parked across from
10 the ambulance bay, outside of a parking garage at
11 that location.

12 Q. What happened when you encountered
13 Lieutenant Leon standing next to the vehicle?

14 A. He had instructed us that we were to
15 safeguard the vehicle at the location.

16 Q. Did he provide any further instructions
17 as to what that would entail?

18 A. He had stated they believed the vehicle
19 to be involved in the shooting from earlier, and
20 he instructed that the vehicle was not to be
21 removed and nothing was to be touched inside or
22 outside of the vehicle.

23 Q. Did he give you instructions as to
24 whether or not you should conduct a search of the
25 vehicle?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. No.

3 Q. He didn't say either way?

4 A. No.

5 Q. Did he instruct you to put up any
6 caution tape or barriers in order to safeguard the
7 vehicle?

8 A. No.

9 Q. Did you at any point safeguard the
10 vehicle by putting up any caution tape or barriers
11 to indicate to the public that the car was part of
12 a crime scene?

13 A. No.

14 Q. When you communicated with Lieutenant
15 Leon when you exited the ER, did you have any
16 conversation with him, other than him instructing
17 you to safeguard the vehicle?

18 A. I had told him the information that I
19 learned of the victim inside from the hospital.

20 Q. Did he tell you anything that he had
21 learned about the shooting incident?

22 A. He had stated he believed that the
23 vehicle was involved in the incident of what had
24 happened, and what led to the victim being in the
25 hospital.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Did he state what the source of that
3 information was, how he learned that?

4 A. No.

5 Q. Other than the exchange of information
6 you just described and Officer Leon (sic)
7 instructing you to safeguard the car, was there
8 anything else said or discussed with Lieutenant
9 Leon when you exited the emergency room and
10 encountered him?

11 A. No.

12 Q. Did you and Officer Jimenez then
13 proceed to safeguard the vehicle?

14 A. Yes.

15 Q. Let me back up. How long did your
16 conversation with Lieutenant Leon last?

17 A. Approximately a minute.

18 Q. During the time -- after that
19 conversation when you were safeguarding the
20 vehicle, did you observe anything additional about
21 the vehicle that you hadn't observed when you
22 walked past it into the emergency room?

23 A. Yes.

24 Q. What else did you observe about the
25 vehicle at that time?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. There was a baseball hat on the ground
3 and I had noticed there was blood on the inside of
4 the vehicle from the door being left open; I was
5 able to see that from the outside.

6 Q. Where was the blood in the car located?

7 A. On the seat.

8 Q. On the passenger seat or the driver
9 seat?

10 A. The passenger seat.

11 Q. Anything else other than the blood and
12 the baseball hat that you observed that you hadn't
13 observed previously about the car?

14 A. No.

15 Q. At any point did you search the
16 vehicle?

17 A. No.

18 Q. At any point did anyone else search the
19 vehicle?

20 MR. ARKO: Objection.

21 A. No.

22 Q. Are you personally aware of whether at
23 any point any contraband or illegal substances
24 were recovered from that vehicle?

25 A. I do not know of that, no.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. What did Lieutenant Lane and Officer
3 Baltzer do, after they exited their vehicle at the
4 scene?

5 A. They approached where Lieutenant Leon
6 was standing.

7 (Technical issue.)

8 Q. Okay. I think my question was, what
9 did Lieutenant Lane and Officer Baltzer do after
10 they exited their vehicle?

11 A. They exited the vehicle and were
12 beginning to walk towards Lieutenant Leon.

13 Q. Were you still having a conversation
14 with Lieutenant Leon or was he farther away from
15 you somewhere else?

16 A. He was further away from me.

17 Q. Where was Officer Leon (sic) located
18 and where were you located at the time that
19 Lieutenant Lane and Officer Baltzer approached
20 him?

21 A. Lieutenant Leon was by the end part of
22 the vehicle and I was standing at the hood part,
23 the front end of the vehicle.

24 Q. When you say "the end part" do you mean
25 the trunk?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Yes.

3 Q. Was Lieutenant Leon also safeguarding
4 the vehicle at that time?

5 A. No.

6 Q. What was your understanding of why he
7 was standing at the trunk of the vehicle at that
8 time?

9 MR. ARKO: Objection.

10 A. I don't know why he was standing there.

11 Q. After Lieutenant Lane and Officer
12 Baltzer approached Lieutenant Leon, did they have
13 a conversation with him?

14 A. They did.

15 Q. Were you able to hear that
16 conversation?

17 A. No.

18 Q. Approximately how long did that
19 conversation last between Lieutenant Leon,
20 Lieutenant Lane and Officer Baltzer?

21 A. From what I observed, approximately a
22 minute.

23 Q. Where was the detective -- where was
24 Officer Jimenez standing at the time where you
25 were standing near the hood of the car and

1 DETECTIVE KRISTEN SWINKUNAS

2 Lieutenant Leon was standing at the trunk having a
3 conversation with the other two members of
4 service?

5 A. She was standing next to me.

6 (Recess.)

7 Q. I think when we left off we were up to
8 the point where you were standing at the hood of
9 the vehicle with Officer Jimenez, and Lieutenant
10 Leon was standing at the trunk having a
11 conversation with Lieutenant Lane and Officer
12 Baltzer which you said lasted approximately one
13 minute.

14 Do you recall that?

15 A. Yes.

16 Q. What happened next?

17 A. Next, I observed a vehicle pull up
18 behind the parked vehicle that was there, the
19 vehicle was blocking a parking garage for hospital
20 staff so I was approaching the vehicle, a
21 gentleman had exited the vehicle, and I asked him
22 to move the vehicle, that he couldn't leave the
23 vehicle at that location.

24 Q. Was that gentleman the plaintiff, Brian
25 Harris; you now know that to be the case?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Yes.

3 Q. What vehicle, if you can remember, did
4 he pull up and park in?

5 A. It was a dark colored SUV as well.

6 Q. Did you approach Mr. Harris and ask him
7 to move his car after he had already exited the
8 vehicle or was he still in the vehicle at that
9 time?

10 A. He had already exited the vehicle.

11 Q. What happened in response to your
12 request that he move his vehicle?

13 A. I had asked him several times to move
14 the vehicle, and Mr. Harris continued walking past
15 me towards the parked vehicle outside of the
16 ambulance bay.

17 Q. Did he respond to you verbally at all
18 in response to your request?

19 A. No.

20 Q. Approximately what's the distance where
21 Mr. Harris' car was parked and the vehicle that
22 you were safeguarding?

23 A. Approximately ten to fifteen feet.

24 Q. Did anyone else come with you to ask
25 Mr. Harris to move his vehicle?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. No.

3 Q. When Mr. Harris did not respond and
4 walks towards the parked -- we will call it the
5 "Chevy SUV" -- did you follow him back towards the
6 car or did you do something else?

7 A. I stayed by the vehicle, Mr. Harris
8 continued walking towards the vehicle.

9 Q. When you say you "stayed by the
10 vehicle" do you mean the Chevy SUV or Mr. Harris'
11 vehicle?

12 A. I stayed by the Chevy SUV.

13 Q. Did you walk over to Mr. Harris'
14 vehicle he had parked in order to request that he
15 move it?

16 A. I was standing in the street when
17 Mr. Harris exited the vehicle, I had asked him
18 several times to move the vehicle, he refused, he
19 continued walking; I walked back towards the Chevy
20 vehicle.

21 Q. You were both walking back towards the
22 Chevy when he didn't respond to your request?

23 A. Yes.

24 Q. Did Mr. Harris say anything as he was
25 approaching the vehicle, the Chevy?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. From what I heard he was stating he was
3 there, his son had been shot.

4 Q. When you heard Mr. Harris saying his
5 son had been shot, did you understand at that
6 point he was the father of the shooting victim you
7 had encountered inside the hospital?

8 A. Yes.

9 Q. Did you also hear him identify himself
10 as the owner of the Chevy?

11 A. Yes.

12 Q. Did Mr. Harris say anything else as he
13 was approaching the Chevy?

14 A. He said he was going to move the car
15 from that location.

16 Q. He was going to move the Chevy?

17 A. Yes.

18 Q. Did he say where he was going to move
19 the Chevy to?

20 A. No.

21 Q. Did he say anything else other than
22 that his son had been shot, he was the owner of
23 the Chevy, and he was going to move the Chevy at
24 the time he was approaching the vehicle?

25 A. That was all that I observed and heard

1 DETECTIVE KRISTEN SWINKUNAS

2 him say.

3 Q. At any point when Mr. Harris was
4 approaching the vehicle, did you respond to him
5 verbally or say anything in response to the three
6 things you identified he just said?

7 A. Yes.

8 Q. What did you say back to him?

9 A. I told him the vehicle was under
10 investigation and the vehicle could not be removed
11 from that location.

12 Q. Did anyone else say anything in
13 response to Mr. Harris as he was approaching the
14 vehicle?

15 MR. ARKO: You just froze; can you
16 repeat the question?

17 Q. Did any of the other members of service
18 say anything to Mr. Harris as he was approaching
19 the vehicle?

20 A. Yes.

21 Q. Who else spoke to Mr. Harris at the
22 time he was approaching the vehicle?

23 A. Lieutenant Lane and Lieutenant Leon.

24 Q. What did Lieutenant Lane say to
25 Mr. Harris as he was approaching the vehicle?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Lieutenant Leon told him that the
3 vehicle could not be removed.

4 Q. That's "Leon" you said?

5 A. Leon, yes.

6 Q. What about Lieutenant Lane, what did he
7 say?

8 A. Lieutenant Lane told him as well
9 several times that the vehicle could not be
10 removed, it was under investigation.

11 Q. What about Officer Baltzer or Jimenez,
12 did they say anything to Mr. Harris as he was
13 approaching the vehicle?

14 A. No.

15 Q. When Mr. Harris was approaching the
16 vehicle what part of the vehicle was he heading
17 towards; the front, the back, the passenger side,
18 the driver side?

19 A. He was going towards the passenger side
20 of the vehicle.

21 Q. In order to get to the passenger side,
22 did he have to walk around either the front of the
23 vehicle or the back of the vehicle?

24 A. No, he walked from the back of the
25 vehicle to the front of vehicle.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Let me sort of back up. Mr. Harris,
3 when he was approaching the vehicle from his car,
4 was he approaching from the driver side or
5 approaching from the passenger side?

6 A. He was approaching from the driver side
7 of his vehicle to the passenger side of the
8 vehicle that was parked, which was the Chevy.

9 Q. In order to get to the passenger side
10 from the driver side, did he go around the back of
11 the vehicle or the front of vehicle?

12 A. He went around the back.

13 Q. At that point, were you still
14 positioned at the front of vehicle or were you
15 somewhere else?

16 A. I was at the driver's side rear of the
17 vehicle when I first engaged in conversation with
18 Mr. Harris and then I turned around and walked to
19 the front of vehicle, from where I was standing I
20 continued walking around towards the front of the
21 vehicle.

22 Q. Were Lieutenant Leon and Lieutenant
23 Lane and Officer Baltzer still at the back of the
24 vehicle?

25 A. Yes.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. So did Mr. Harris pass them in order to
3 walk around to the passenger side of the vehicle?

4 A. He didn't pass them, he walked in front
5 of them.

6 Q. You said that Mr. Harris stated that he
7 wanted to move the car.

8 Is that correct?

9 A. Yes.

10 Q. Do you have any understanding of why if
11 he wanted to move the car he was going to the
12 passenger side as opposed to the driver side?

13 MR. ARKO: Objection.

14 A. I don't know.

15 Q. Did he say anything about why he was
16 going to the passenger side instead of the
17 driver's side if he wanted to move the vehicle?

18 A. No.

19 Q. What happened after you and Lieutenant
20 Lane and Lieutenant Leon stated that the vehicle
21 could not be removed?

22 A. Mr. Harris became very upset, he was
23 adamant that he was going to be removing that
24 vehicle from the location.

25 Q. How did you know that he was upset?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. He was screaming, using obscenities,
3 his hands were raised very violently above his
4 head, and he was stating over and over he was
5 moving the car from the location.

6 Q. When you said "he was screaming" was he
7 screaming he was going to move the car or
8 something else?

9 A. He was using obscenities, that he
10 didn't care with the direction he was being told,
11 and he was going to move the vehicle from that
12 location, it was his vehicle.

13 Q. What obscenities was he using?

14 A. The "F word."

15 Q. It's okay for the record, can you state
16 what you remember him saying?

17 A. He stated he "did not give a fuck, he
18 was going to take the car."

19 Q. Do you recall him saying that
20 specifically or is that something that you recall
21 from observing it on the video you watched in
22 preparation for this deposition?

23 A. I recall him stating that.

24 Q. Other than saying that "he did not give
25 a fuck" were there any other obscenities you heard

1 DETECTIVE KRISTEN SWINKUNAS

2 him use during this conversation?

3 A. That was it that I recall him stating.

4 Q. Other than stating that he was going to
5 move the car and he did not give a fuck, do you
6 recall anything else he was saying or screaming
7 during this conversation?

8 A. He was just very adamant he was going
9 to be taking the vehicle, that it was his vehicle.

10 Q. You said that Mr. Harris' hands were up
11 and he was waving them around.

12 Do you recall that?

13 A. Yes.

14 Q. When his hands were up, were you able
15 to observe what, if anything, he was holding in
16 his hands?

17 A. A recall a pair of keys in his hands.

18 Q. Anything else?

19 A. That's all I recall seeing in his
20 hands.

21 Q. Do you recall any weapons or dangerous
22 objects in his hands?

23 A. No.

24 Q. Is that something you're trained to
25 look for when you're interacting with someone,

1 DETECTIVE KRISTEN SWINKUNAS

2 whether they are holding a weapon or something
3 dangerous?

4 A. Yes.

5 Q. Is it fair to say if he had been
6 holding a weapon or dangerous object that's
7 something you would have taken note of?

8 MR. ARKO: Objection.

9 A. Yes.

10 Q. Can you describe what you mean when you
11 say "he was waving his hands around during this
12 conversation"?

13 A. Mr. Harris was very upset, his hands
14 were above his head and he was waving his arms in
15 a manner that he was going to move the car, and
16 what he was being instructed to do he was not
17 going to do it.

18 Q. Was his hands in the air for the entire
19 conversation that you had or were they in the air
20 for some of the conversations that you had?

21 A. Majority of the conversation.

22 Q. Just to clarify, when I say "the
23 conversation you had," I am talking about the
24 conversation generally that was going on with you,
25 Lieutenant Leon, Lieutenant Lane and the

1 DETECTIVE KRISTEN SWINKUNAS

2 plaintiff.

3 So after Mr. Harris was "screaming" as
4 you describe it and flailing his arms in the air
5 saying that he was going to move the car, did you
6 say anything else to him?

7 A. I just calmly told him again "sir, the
8 vehicle is under investigation, you cannot remove
9 this vehicle from this location."

10 Q. Is it your testimony you said that
11 again after Mr. Harris began screaming and
12 flailing his arms?

13 A. Yes.

14 Q. Did Lieutenant Leon or Lieutenant Lane
15 or Officer Baltzer or Officer Jimenez say anything
16 to Mr. Harris, after he allegedly started
17 screaming and waiving his hands around?

18 MR. ARKO: Objection.

19 A. Yes.

20 Q. What did they say to him at that point?

21 A. Lieutenant Leon again was telling him
22 again he cannot move the vehicle, Lieutenant Lane
23 was stating if he was not going to comply that he
24 was going to be placed under arrest.

25 Q. What happened after that?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Mr. Harris again began screaming back
3 at Lieutenant Lane that he didn't care if he was
4 going to get arrested, that he was going to take
5 the vehicle and from there Lieutenant Lane kept
6 telling him "you're going to be arrested" and from
7 there Lieutenant Leon had instructed that he be
8 TASED.

9 Q. How many times did Lieutenant Lane tell
10 Mr. Harris that he would be arrested?

11 A. To my knowledge, twice.

12 Q. After Lieutenant Lane told Mr. Harris
13 that he would be arrested and Lieutenant Leon
14 instructed that he'd be TASED, did you say
15 anything else to Mr. Harris at that point?

16 A. I just kept telling him that he needed
17 to step away from the vehicle, that the vehicle
18 could not be removed.

19 Q. Approximately how many times did you
20 tell Mr. Harris he needed to step away from the
21 vehicle and it could not be removed, during the
22 course of that conversation up until Mr. Harris
23 was TASED?

24 A. At least three or four times.

25 Q. Did you say anything to Mr. Harris

1 DETECTIVE KRISTEN SWINKUNAS

2 other than that he needed to step away from the
3 vehicle?

4 A. No.

5 Q. Did you ever tell Mr. Harris that he
6 would be arrested?

7 A. No.

8 Q. Did you ever tell Mr. Harris that he
9 was going to be TASED?

10 A. No.

11 Q. So you mentioned -- which came first
12 chronologically in time, Lieutenant Leon
13 instructing the TASEing or Lieutenant Lane saying
14 that plaintiff would be arrested?

15 A. Lieutenant Lane stating that the
16 plaintiff would be arrested.

17 Q. You testified earlier that he stated
18 that at least two times.

19 Is that correct?

20 A. Yes.

21 Q. Did he state that at least two times
22 before Lieutenant Leon gave the TASER order?

23 A. Yes.

24 Q. At the time that Lieutenant Lane was
25 telling the plaintiff he could be arrested, where

1 DETECTIVE KRISTEN SWINKUNAS

2 was Lieutenant Lane standing in connection to the
3 plaintiff?

4 A. Lieutenant Lane was standing closest to
5 the parked Chevy, approximately an arm's reach
6 next to the plaintiff.

7 Q. Where was Lieutenant Leon standing at
8 that time?

9 A. Lieutenant Leon was standing next to me
10 in front of the plaintiff, and in front of
11 Lieutenant Lane.

12 Q. Where was Officer Baltzer standing?

13 A. Officer Baltzer was standing slightly
14 behind Lieutenant Lane, but to the right of him.

15 Q. Where was Officer Jimenez standing?

16 A. Officer Jimenez was standing behind me.

17 Q. Was Lieutenant Leon standing in front
18 of you such that he was obstructing your view or
19 were you standing next to him, in between him and
20 the plaintiff?

21 A. I was standing to the right of him, I
22 was closest to the plaintiff.

23 Q. Was anything obstructing your view of
24 plaintiff during this time?

25 A. No.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. At some point did Officer Lane
3 (sic)move towards plaintiff in an effort to arrest
4 him?

5 A. Yes, Lieutenant Lane did approach
6 plaintiff and did attempt to place him under
7 arrest.

8 Q. Was that before or after Lieutenant
9 Leon gave the TASER order?

10 A. That was after.

11 Q. So it is your testimony that Lieutenant
12 Leon gave the TASER order, and then at that point
13 Lieutenant Lane moved in to approach and arrest
14 the plaintiff?

15 A. Yes.

16 Q. So at the time that Lieutenant Leon
17 gave the TASER order, Lieutenant Lane had not yet
18 taken any physical steps to arrest the plaintiff,
19 correct?

20 A. He had stated to him twice that he was
21 going to be arrested if he did not comply. At
22 that point, the plaintiff began flailing his arms
23 and Lieutenant Lane again instructed "you're going
24 to be arrested" and he said "I don't care."
25 Lieutenant Lane went to grab him, as he went to

1 DETECTIVE KRISTEN SWINKUNAS
2 grab him the plaintiff pushed back off of
3 Lieutenant Lane, and that's when Lieutenant Leon
4 made the call to have him TASERed.

5 Q. Your testimony a moment ago was that
6 Lieutenant Leon gave the TASER order before
7 Lieutenant Lane approached plaintiff to arrest
8 him.

9 Is that correct?

10 A. I mistakenly -- everything just
11 happened so fast, the call was made that he was
12 going to be arrested if he didn't comply, from
13 there when he approached everything happened all
14 in the same time frame, so...

15 Q. Sitting here today do you know whether
16 Lieutenant Leon gave the TASER order before or
17 after Lieutenant Lane approached the plaintiff to
18 arrest him?

19 A. I mistakenly stated that, but it all
20 happened at the same time. The call was made once
21 Lieutenant Lane went in to grab the plaintiff and
22 the plaintiff pushed back, that's when Lieutenant
23 Leon stated for him to be TASED.

24 Q. So now it's your testimony that the
25 TASER order came after Lieutenant Lane approached

1 DETECTIVE KRISTEN SWINKUNAS

2 plaintiff --

3 A. Yes.

4 MR. ARKO: Objection, you can answer.

5 A. Yes, it was after he went to approach.

6 Q. When Lieutenant Lane approached
7 plaintiff to place him under arrest, did you
8 observe plaintiff put his hands in the air and
9 turn his body?

10 A. No, he was still flailing his arms.

11 Q. So is it your testimony that plaintiff
12 was flailing his arms at the time that Lieutenant
13 Lane approached him to arrest him, and he
14 continued to flail his arms as Lieutenant Lane was
15 attempting to arrest him?

16 MR. ARKO: Objection.

17 A. Yes.

18 Q. It's your testimony that at no point
19 did plaintiff put his hands in the air when
20 Lieutenant Lane approached him?

21 MR. ARKO: Objection.

22 A. No, he was not compliant.

23 Q. That wasn't my question. My question
24 is, is it your testimony that plaintiff did not
25 put his hands in the air and turn at the time that

1 DETECTIVE KRISTEN SWINKUNAS

2 Lieutenant Lane approached him?

3 MR. ARKO: Objection.

4 A. He did not put his hands up, no.

5 Q. So you corrected your testimony to say
6 that Lieutenant Leon gave the TASER order after
7 Lieutenant Lane approached plaintiff.

8 Correct?

9 A. Yes.

10 Q. Approximately how long after Lieutenant
11 Lane approached plaintiff did it take for
12 Lieutenant Leon to give the TASER order?

13 A. Seconds.

14 Q. How many seconds?

15 A. Maybe a second.

16 Q. Just to be clear, after Lieutenant Lane
17 approached plaintiff to arrest him, what did
18 plaintiff -- your testimony is that plaintiff
19 continued to flail his arms, is that correct?

20 A. Yes.

21 Q. When Lieutenant Leon gave the TASER
22 order, who did you understand him to be giving
23 that order to?

24 MR. ARKO: Objection.

25 A. I don't know who he was directing that

1 DETECTIVE KRISTEN SWINKUNAS

2 to.

3 Q. Did you know whether anyone at the
4 scene had a TASER?

5 A. I do know, yes.

6 Q. At the time of the incident, did you
7 know whether anyone at the scene had a TASER?

8 A. Yes.

9 Q. Who did you know to have a TASER who
10 was present at the scene?

11 A. Lieutenant Leon had a TASER, Officer
12 Jimenez had a TASER, Officer Baltzer had a TASER
13 and Lieutenant Lane had a TASER.

14 (Noise interruption.)

15 Q. So, is it fair to say that everyone who
16 was a member of service at the scene, except for
17 you, had a TASER?

18 A. Yes.

19 Q. Did you know at the time that all of
20 the rest of them had TASERS except for you?

21 A. Yes.

22 Q. How did you know that?

23 A. You can visually see it on their gun
24 belt.

25 Q. Did you make note of that at the time

1 DETECTIVE KRISTEN SWINKUNAS

2 Lieutenant Leon gave that order or had you already
3 observed all four of the other people there had
4 TASERS?

5 MR. ARKO: Objection.

6 A. I had already observed they had them on
7 their gun belt.

8 Q. Is that something that you typically
9 look at when you're talking to other members of
10 service?

11 MR. ARKO: Objection.

12 A. Yes.

13 Q. When Lieutenant Leon gave the TASER
14 order, did you think he was talking to any other
15 individual member of service?

16 A. I don't know who he was directing that
17 to.

18 Q. Did you see him look at anyone else in
19 particular?

20 A. No.

21 Q. Did you see him point to anyone in
22 particular?

23 A. No.

24 Q. What was the TASER order you heard
25 Lieutenant Leon give?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. To TASE him.

3 Q. You heard him say "TASE him"?

4 A. Yes.

5 Q. Did you hear him give that command once
6 or multiple times?

7 A. From my recollection, I heard it once.

8 Q. In response to Lieutenant Leon saying
9 "TASE him," did Officer Jimenez get out her TASER?

10 MR. ARKO: Objection.

11 A. Not that I am aware of.

12 Q. Do you have any understanding of why
13 Officer Jimenez did not respond to Lieutenant
14 Leon's command to TASE the plaintiff?

15 MR. ARKO: Objection.

16 A. I don't know.

17 Q. Did you ever talk to her about that?

18 A. No.

19 Q. Are you surprised that she didn't
20 respond to the command when she had a TASER --

21 MR. ARKO: Objection.

22 A. No.

23 Q. Why is that not surprising to you given
24 the directive to follow the commanding officer's
25 orders?

1 DETECTIVE KRISTEN SWINKUNAS

2 MR. ARKO: Objection.

3 A. Officer Jimenez was standing behind
4 myself and Lieutenant Leon at that time.

5 Q. My question is, why are you not
6 surprised that she didn't follow Lieutenant Leon's
7 order to TASE the plaintiff, given my
8 understanding that generally you are supposed to
9 follow commanding officer's orders?

10 MR. ARKO: Objection.

11 A. We were blocking her view, we were
12 standing in front of her so I don't know what she
13 saw from her standing behind me.

14 Q. It is possible that Officer Jimenez
15 could have taken her TASER and TASED plaintiff in
16 that situation had she heard the command and
17 decided to follow it, correct?

18 MR. ARKO: You froze; can you repeat
19 the question?

20 Q. Nothing about the way you were standing
21 would have prevented Officer Jimenez from drawing
22 her TASER and TASEing plaintiff had she heard the
23 command and decided to follow through, correct?

24 MR. ARKO: Objection.

25 A. Officer Jimenez was standing behind us.

1 DETECTIVE KRISTEN SWINKUNAS

2 For her to remove her TASER and take it off of her
3 gun belt, we still were blocking her view, so she
4 would have to stand in front of us to execute
5 utilize her TASER.

6 Q. Is it your testimony it would have been
7 physically impossible for her to execute her TASER
8 because you were blocking her and she could not
9 have done it?

10 MR. ARKO: Objection.

11 A. Yes.

12 Q. So you don't think there was any way
13 she could have found a way to get around you in
14 order to follow that instruction?

15 MR. ARKO: Objection.

16 A. If she could have, yes.

17 Q. Sorry. Are you saying she could have
18 gone around you?

19 A. Yes, she could have gone around us.

20 Q. When Lieutenant Leon gave the TASER
21 order, did Lieutenant Lane take any steps to get
22 his TASER?

23 A. Not that I am aware of.

24 Q. Do you have any understanding of why
25 Lieutenant Lane did not respond to Lieutenant

1 DETECTIVE KRISTEN SWINKUNAS

2 Leon's order to TASE the plaintiff?

3 MR. ARKO: Objection.

4 A. I don't know.

5 Q. Did you ever have any conversations
6 with Lieutenant Lane about why he did not respond
7 to the order to TASE the plaintiff?

8 A. No.

9 Q. You testified that Lieutenant Leon also
10 had a TASER on him, correct?

11 A. Yes.

12 Q. Lieutenant Leon was standing across
13 from the plaintiff, correct?

14 A. Yes.

15 Q. There was no one blocking his access to
16 the plaintiff, correct?

17 A. No.

18 Q. Do you have any understanding of why
19 Lieutenant Leon didn't take out his own TASER to
20 TASE the plaintiff?

21 MR. ARKO: Objection.

22 A. No.

23 Q. Did you ever have any conversations
24 with him about why he didn't TASE the plaintiff
25 himself?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. No.

3 Q. Lieutenant Lane at that point was
4 directly next to the plaintiff, correct?

5 A. Yes.

6 Q. So there was no one impeding his access
7 to the plaintiff, correct?

8 MR. ARKO: Objection.

9 A. No.

10 Q. When Lieutenant Leon gave the command
11 to TASE plaintiff what, if anything, did Officer
12 Baltzer do in response?

13 A. He removed his TASER from his gun belt
14 and TASED the plaintiff.

15 Q. Did he do that immediately or was there
16 any delay in his TASEing the plaintiff in response
17 to Lieutenant Leon's command?

18 A. From my recollection it was pretty much
19 an immediate response.

20 Q. It was also your testimony that it was
21 in response to one command in which Lieutenant
22 Leon said "TASE him."

23 Correct?

24 MR. ARKO: Objection.

25 A. Yes.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. What was plaintiff doing with his body
3 at the time that Officer Baltzer TASED him?

4 A. Once the plaintiff was TASERed he fell
5 to the ground.

6 Q. My question was, at the time he was
7 TASED, like milliseconds before he was TASED, what
8 was he doing with his body?

9 MR. ARKO: Objection.

10 A. The plaintiff was pushing his body
11 against the inside door panel of the vehicle.

12 Q. Do you mean the inside of the car door?

13 A. Yes.

14 (Technical issue.)

15 Q. Let me ask that question again. When
16 you say "the inside door panel" do you mean inside
17 interior of the front passenger side door?

18 A. Yes.

19 (Technical issue.)

20 MS. KAUFMAN: Can you read back the
21 last question?

22 (The following was read from the record by the
23 stenographer: "Q. Let me ask that question again.

24 When you say "the inside door panel" do you mean
25 inside interior of the front passenger side door?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Yes.")

3 Q. How did Mr. Harris come to be from
4 standing up and flailing his arms around, to
5 leaning against the front, inside passenger door?

6 A. He was -- Mr. Harris was standing --
7 pretty much the length of the conversations that
8 we were having with him, he was standing with his
9 back on the inside frame the whole time we were
10 having a conversation with him. So he was inside
11 the door panel of the open door the entire time we
12 were speaking to him.

13 Q. Had Lieutenant Lane like backed him
14 further or pinned him against that door such that
15 he was touching it at the time he was TASED?

16 A. He was already touching.

17 Q. Was any part of Mr. Harris' body ever
18 inside the interior of the vehicle during this
19 conversation?

20 A. No, he was standing on the outside
21 panel of the door.

22 Q. Before Officer Baltzer deployed his
23 TASER, did he say anything to indicate that he was
24 going to deploy it?

25 A. Not to my knowledge.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. You didn't hear him give any warning to
3 you as officers or to plaintiff?

4 MR. ARKO: Objection.

5 A. No.

6 Q. Typically in your experience working
7 for the NYPD, are officers supposed to give a
8 warning before deploying a TASER?

9 MR. ARKO: Objection.

10 A. Not to my knowledge.

11 Q. So it's your testimony that it's
12 appropriate to deploy a TASER without giving a
13 warning either to the person you're going to TASE
14 or to surrounding officers that you're going to
15 TASE?

16 MR. ARKO: Objection.

17 A. Not to my knowledge.

18 Q. To your knowledge, you're not required
19 to give that warning, correct?

20 A. That is correct.

21 Q. Between the time that plaintiff was
22 flailing his arms and Lieutenant Lane approached
23 him and the time that plaintiff was actually TASED
24 what, if anything, was plaintiff doing with his
25 body?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. He was pushing off of Lieutenant Lane
3 as he approached.

4 Q. When you say "pushing off," what do you
5 mean by that?

6 A. He now had his hands in front of his
7 body and was pushing Lieutenant Lane back from
8 him.

9 Q. So it is your testimony that he went
10 from flailing his arms around to putting his hands
11 in front of his body while Lieutenant Lane
12 approached him.

13 Is that --

14 MR. ARKO: Objection --

15 A. Yes.

16 Q. Did plaintiff ever touch Lieutenant
17 Lane before he was TASED?

18 A. His hands physically touched him when
19 Lieutenant Lane was approaching him, his hands
20 were on Lieutenant Lane.

21 Q. Where was plaintiff's hands located on
22 Lieutenant Lane?

23 A. From what I recall, they were in front
24 like on his front panel of his body.

25 Q. On Lieutenant Lane's chest?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. Yes.

3 Q. Did Lieutenant Lane touch plaintiff at
4 all as he was attempting to arrest him?

5 A. Yes.

6 Q. Where did Lieutenant Lane touch
7 plaintiff?

8 A. Lieutenant Lane went to grab the
9 plaintiff's right arm that was closest to him.

10 Q. Did he actually touch plaintiff and
11 grab his arm at any point?

12 A. Yes.

13 Q. Were there any other ways in which
14 Lieutenant Lane and plaintiff touched each other
15 between the time that Lieutenant Lane approached
16 plaintiff and the time that plaintiff was TASED,
17 other than Lieutenant Lane grabbing his arm and
18 plaintiff touching Lieutenant Lane's chest?

19 A. Not to my knowledge.

20 Q. Did Lieutenant Lane grab plaintiff's
21 arm once or multiple times?

22 A. From what I observed he went to grab
23 his right arm, so in that instance it was that one
24 time he went to grab his arm.

25 Q. Between the time that Lieutenant Lane

1 DETECTIVE KRISTEN SWINKUNAS
2 approached plaintiff and the time that plaintiff
3 was TASED what, if anything, did you do?

4 A. I was standing to the left side of
5 Mr. Harris, and again I am telling him that he
6 needs to move away from the vehicle.

7 Q. Did you take any steps to physically
8 intervene between the time that Lieutenant Lane
9 approached plaintiff and the time he was TASED?

10 A. No.

11 Q. Why did you not take any steps to
12 physically intervene during that time?

13 A. Lieutenant Lane was engaging in
14 conversation with the plaintiff, I had stated to
15 the plaintiff that he needed to move away from the
16 vehicle, he was not complying even with my request
17 of him moving away from the vehicle.

18 Q. Is it your testimony you didn't
19 physically intervene because you didn't think it
20 was necessary?

21 MR. ARKO: Objection.

22 A. At that moment I was having a
23 conversation trying to get Mr. Harris to move away
24 from the vehicle and he was not complying with
25 what I was stating, and at that point Mr. Harris

1 DETECTIVE KRISTEN SWINKUNAS
2 was now engaged in conversation with Lieutenant
3 Lane.

4 Q. My question is, you didn't think it was
5 necessary for you to intervene further to assist
6 Lieutenant Lane in effectuating Mr. Harris'
7 arrest --

8 MR. ARKO: Objection.

9 A. No.

10 Q. No, you didn't think it was necessary?

11 A. No.

12 Q. I don't think I'm understanding your
13 testimony. Is it your testimony that you didn't
14 think it was necessary to intervene further in
15 order to help Lieutenant Lane effectuate the
16 arrest?

17 A. That is correct.

18 Q. What, if anything, did you do when
19 Lieutenant Leon gave the TASER order?

20 A. I stepped to the right side of me.

21 Q. Why was that?

22 A. In the hopes that I wouldn't get TASED.

23 Q. At no point did you have any physical
24 interaction with Mr. Harris, correct?

25 A. No.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. You didn't take any action to subdue
3 him or you didn't put your hands on him in any
4 way, is that correct?

5 MR. ARKO: Objection.

6 A. Once Mr. Harris was placed (sic), after
7 he had been TASED and was on the ground, I
8 assisted with putting him under arrest.

9 Q. I will clarify that, that was helpful.
10 So up until the point that the plaintiff was TASED
11 you didn't take any physical action to subdue or
12 restrain the plaintiff, correct?

13 A. I did not, no.

14 Q. And up until the point that plaintiff
15 was TASED you did not physically interact with him
16 and he did not physically interact with you,
17 correct?

18 A. That is correct.

19 Q. What was your mental impression or
20 reaction at the time that Lieutenant Leon gave the
21 TASER order?

22 MR. ARKO: Objection.

23 A. I didn't have any reaction.

24 Q. Were you surprised at all that he gave
25 that order?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. No.

3 Q. Were you surprised at all that
4 Lieutenant Lane and Officer Jimenez did not
5 respond to that TASER order by getting their own
6 TASERs out?

7 MR. ARKO: Objection.

8 A. No.

9 Q. Were you surprised at all that Officer
10 Leon (sic) gave a TASER order rather than getting
11 his own TASER out?

12 MR. ARKO: Objection.

13 A. No.

14 Q. Based on your experience in the NYPD,
15 do you have any understanding of why a commanding
16 officer would give a TASER order rather than
17 TASing someone themselves?

18 MR. ARKO: Objection.

19 A. I don't know.

20 Q. You testified previously when plaintiff
21 approached you could see he had his keys in one
22 hand.

23 Correct?

24 A. Yes.

25 Q. Or he had some keys in one hand.

1 DETECTIVE KRISTEN SWINKUNAS

2 Correct?

3 A. Yes.

4 Q. You observed at that point he did not
5 appear to have any weapons or any dangerous
6 objects on him, correct?

7 MR. ARKO: Objection.

8 A. Yes.

9 Q. Did that ever change up until the point
10 that plaintiff was TASED? In other words, at any
11 point before plaintiff was TASED, did you ever
12 observe him to have a weapon or a dangerous object
13 on him?

14 A. No.

15 Q. Was there any time up until the point
16 where plaintiff was TASED where you could not see
17 his hands or were concerned that he had a weapon
18 or dangerous object on him?

19 A. No.

20 Q. Did you ever smell any alcohol or
21 marijuana on the plaintiff up until the point he
22 was TASED?

23 A. I personally did not, no.

24 Q. Did you believe that plaintiff was
25 under the influence of drugs or alcohol up until

1 DETECTIVE KRISTEN SWINKUNAS

2 the point that he was TASED?

3 A. I did not, no.

4 Q. Did plaintiff, during the course of
5 that conversation up until the point that he was
6 TASED, make any threats to you about physical harm
7 or anything else?

8 A. No.

9 Q. Did you hear plaintiff physically
10 threaten or otherwise threaten any of the other
11 members of service?

12 A. Not to my knowledge.

13 Q. Were there any civilians around on the
14 street that you observed during this conversation
15 up until the point plaintiff was TASED?

16 A. There was another person standing on
17 the sidewalk.

18 Q. Was that person a civilian or someone
19 else?

20 A. She was a civilian.

21 Q. Did you know who that person was?

22 A. I later came to know that that was the
23 victim's mom.

24 Q. Was the victim's mom present at the
25 time that this conversation was happening and that

1 DETECTIVE KRISTEN SWINKUNAS

2 plaintiff was TASED?

3 A. Yes.

4 Q. Is it your understanding she observed
5 plaintiff being TASED firsthand?

6 A. I don't recall whether or not she
7 actually saw it herself.

8 Q. When did you first observe that the
9 victim's mom was present on the sidewalk?

10 A. She was engaged in a conversation on
11 her phone.

12 Q. My question was, when did you first
13 observe that she was present on the sidewalk?

14 A. When I had exited the emergency room,
15 she had exited the emergency room shortly after I
16 did.

17 Q. After plaintiff was TASED, did you
18 observe that she was still there standing on the
19 sidewalk?

20 A. She was on the sidewalk still on her
21 phone.

22 Q. So she was on the sidewalk on her phone
23 at the time you left the emergency room, and she
24 was on the sidewalk on her phone after the
25 plaintiff was TASED, correct?

1 DETECTIVE KRISTEN SWINKUNAS

2 A. She exited the hospital shortly after I
3 did, and then got on her phone and engaged in a
4 conversation.

5 Q. My question is, you know that she was
6 on her phone on the sidewalk at the time that
7 plaintiff approached the vehicle, and she was also
8 on her phone on the sidewalk after plaintiff was
9 TASED, correct?

10 A. She was no longer on the phone after he
11 was TASED.

12 Q. But she was still present on the
13 sidewalk?

14 A. Yes.

15 Q. Do you have any knowledge if she went
16 back into the ER in between the time that you
17 observed her exit the first time and the time you
18 observed her after plaintiff was TASED?

19 A. I don't recall, my back now was at this
20 point towards the hospital, towards the emergency
21 room side.

22 Q. So to be clear, you know she was there
23 when he approached and she was there after, but
24 you don't know whether she went inside or observed
25 the actual TASing --

1 DETECTIVE KRISTEN SWINKUNAS

2 A. That is correct.

3 Q. Did you have any concern that plaintiff
4 would injure that person who you later learned to
5 be the shooting victim's mother?

6 A. No.

7 Q. At any point did Mr. Harris attempt to
8 run away from the scene or flee the police?

9 A. No.

10 Q. Did you have any fear that plaintiff
11 would injure you at any point?

12 A. No.

13 Q. Did you have any fear that plaintiff
14 would injure any of the other officers at any
15 point?

16 A. To my recollection, no.

17 Q. You did not have a TASER on the night
18 in question, correct?

19 A. That is correct.

20 Q. Are you certified to use a TASER?

21 A. I am not.

22 Q. Why are you not certified to use a
23 TASER?

24 MR. ARKO: Objection.

25 A. I was never qualified to use a TASER or

1 DETECTIVE KRISTEN SWINKUNAS

2 to carry.

3 Q. How does one qualify to use or carry a
4 TASER?

5 MR. ARKO: Objection.

6 A. Prior to, you have to go through
7 training for it.

8 Q. Is that something you decide to do or
9 someone else decides that you should do?

10 MR. ARKO: Objection.

11 A. The training officer or sergeant at the
12 precinct would determine who would be sent to get
13 TASER qualified.

14 Q. Have you ever attempted to be qualified
15 to use a TASER, and that hasn't come to fruition
16 for one reason or another?

17 A. No.

18 Q. Other than this incident, have you ever
19 been present when a TASER has been deployed
20 against a civilian?

21 A. Yes.

22 Q. Approximately how many times have you
23 been present when a TASER has been deployed
24 against a civilian?

25 A. One other time.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Approximately when did that happen?

3 A. Approximately a year ago.

4 Q. So that was before or after this
5 incident?

6 A. It was before.

7 Q. How long approximately -- approximately
8 how long before this incident was the other time
9 you witnessed a TASER being deployed against a
10 civilian?

11 A. A year prior to this.

12 Q. So not a year prior to now, a year
13 prior to September 2020?

14 A. Yes.

15 Q. What were the circumstances of that
16 other occasion in which you witnessed a TASER
17 being deployed against a civilian?

18 MR. ARKO: Objection.

19 A. An emotionally disturbed person was
20 refusing to put his hands behind his back, it was
21 later determined that there was a weapon that was
22 at the location as well.

23 Q. Were you working in the 26th Precinct
24 at this time?

25 A. Yes.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. Who was the officer that deployed the
3 TASER in that case?

4 MR. ARKO: Objection.

5 A. That I don't remember.

6 Q. Why was it necessary to deploy a TASER
7 in that case where the EDI person was refusing to
8 put his hands behind his back?

9 MR. ARKO: Objection.

10 A. The emotionally disturbed person
11 approached and attempted to assault the officer at
12 the location.

13 Q. What do you mean by "attempted to
14 assault the officer"?

15 MR. ARKO: Objection.

16 A. He reached in and went to grab the
17 officer.

18 Q. Is the officer that he tried to grab
19 the same officer who deployed the TASER?

20 A. No.

21 Q. A different officer deployed the TASER?

22 A. Yes.

23 Q. Did the officer who deployed the TASER
24 give a warning prior to deploying the TASER?

25 A. Not to my knowledge.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. What happened immediately after Officer
3 Baltzer TASED the plaintiff?

4 A. Lieutenant Leon had asked for medical
5 assistance for the plaintiff.

6 Q. So even before that, after he was
7 TASED, did plaintiff fall to the ground?

8 A. Yes.

9 Q. Did you observe plaintiff falling to
10 the ground?

11 A. Yes.

12 Q. Did you observe on what part of
13 plaintiff's body he first made contact with the
14 ground?

15 A. He landed on his right side.

16 Q. On his right side?

17 A. Yes.

18 Q. Did you observe what part of his body
19 hit the ground first?

20 A. I did not.

21 Q. Can you describe the way that plaintiff
22 was acting immediately after he was TASED, and as
23 he fell to the ground?

24 A. As he was falling to the ground
25 plaintiff was screaming that he was in pain.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. What happened after plaintiff hit the
3 ground?

4 A. Lieutenant Leon had went over to
5 Central Dispatch and asked for emergency
6 assistance to come and aid the plaintiff.

7 Q. Was plaintiff handcuffed at some point?

8 A. Once plaintiff was TASERed he was
9 handcuffed, yes.

10 Q. Was that before or after Lieutenant
11 Leon called Central Dispatch?

12 A. He was TASED before the call was made.

13 Q. Sorry, was he handcuffed before or
14 after Lieutenant Leon called Central Dispatch?

15 A. He was handcuffed prior to Lieutenant
16 Leon making the call to Central Dispatch.

17 Q. Who handcuffed the plaintiff?

18 A. I believe I did; I assisted in
19 handcuffing.

20 Q. Whose handcuffs were used?

21 A. I believe they were mine.

22 Q. At what point did you approach
23 plaintiff in order to handcuff him?

24 A. Once plaintiff was on the ground we had
25 gone in and arrested him; placed him under arrest.

1 DETECTIVE KRISTEN SWINKUNAS

2 Q. What happened after plaintiff was on
3 the ground and placed under arrest?

4 A. A short time Lieutenant Leon had asked
5 for medical assistance, the plaintiff was actually
6 asked several times if he wanted to sit up and he
7 said "yes." Lieutenant Lane, Officer Baltzer and
8 myself helped him sit up on the ground, so he was
9 in a sitting position.

10 Q. What happened after plaintiff was in a
11 sitting position on the ground?

12 A. The plaintiff just began trying to
13 understand why his son was shot, he was genuinely
14 upset about what had happened to his son, and then
15 from there EMS workers who were inside the
16 emergency room, they came out to assist.

17 Q. Did plaintiff receive any medical
18 attention by you or anyone else before entering
19 the hospital?

20 A. No.

21 Q. Did you share any information with
22 Mr. Harris about his son's shooting at the time he
23 was sitting on the ground handcuffed?

24 A. No.

25 Q. Did you personally speak to Mr. Harris